

Serial No.: 09/827,470  
Art Unit: 2611

### REMARKS

This is a full and timely response to the outstanding Advisory Action mailed June 20, 2006. Upon entry of the amendments in this response, claims 1-3, 5-26, 28-31 and 33-38 remain pending. More specifically, claims 1 and 26 have been amended. Claims 4, 27 and 32 have been previously canceled. Reconsideration and allowance of the application and pending claims are respectfully requested.

#### **I. Drawing Amendments in Prior Response**

Applicants note that amendments to the drawings were submitted with the response previously filed on July 25, 2005 and were not acknowledged as having been accepted in either Office Actions since received. Applicants respectfully request acknowledgment that the drawings have been received and accepted.

#### **II. Specification Amendments in Prior Response**

Applicants note that amendments to the specification were submitted with the response previously filed on July 25, 2005 and were not acknowledged as having been accepted in either Office Action since received. Applicants respectfully request acknowledgment that the amendments to the specification have been accepted.

#### **III. Claim Rejections - 35 U.S.C. § 103(a)**

##### **A. Rejection of Claims 1-10, 14-33 and 36-38**

Claims 1-3, 5-10, 14-22, 25, 26, 28-31, 33 and 36-38 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 6,088,722 to Herz *et al.*, hereinafter referenced as *Herz*, in view of U.S. Publication No. 2002/0073425 to Arai *et al.*, hereinafter referenced as *Arai*, and further in view of U.S. Patent No. 5,978,043 to Blonstein *et al.*, hereinafter referenced as *Blonstein*. Claims 11-13 and 34-35 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Herz* in view of *Arai* and further in view of U.S. Patent No. 6,216,264 to Maze *et al.*, hereinafter referenced as *Maze*. Claim 23 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Herz* in view of *Arai* and *Blonstein*, in view, as applied to claim 1 above, and further in view of U.S. Patent

Serial No.: 09/827,470  
Art Unit: 2611

No. 4,393,502 to Tanaka *et al.*, hereinafter referenced as *Tanaka*. Claim 24 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Herz* in view of *Arai* and *Blonstein*, as applied to claim 1 above, and further in view of U.S. Patent No. 5,729,280 to Inoue *et al.*, hereinafter referenced as *Inoue*. Applicants respectfully traverse these rejections.

#### B. Discussion of the Rejection

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness by showing some objective teaching in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). The Manual of Patent Examining Procedure (MPEP) section 2143 discusses the requirements of a *prima facie* case for obviousness. That section provides as follows:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teaching. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and reasonable expectation of success must be found in the prior art, and not based on applicant's disclosure.

In the present case, is respectfully asserted that a *prima facie* case for obviousness has not been established.

#### Independent Claim 1

Claim 1, as amended, recites:

1. A media system, comprising:  
a memory to store media information characterizing media; and  
a processor configured by the memory to provide a user interface to enable a user to define a media presentation from the media information,

Serial No.: 09/827,470  
Art Unit: 2611

wherein the processor is further configured by the memory to continually and automatically segue media stream changes among a plurality of the media streams containing the media to present the user defined media presentation, *wherein the user interface is configured to enable the user to prioritize in advance of a time corresponding to the media presentation a presentation order of the media corresponding to the media presentation defined by the user, wherein the user interface is further configured to enable the user to define a presentation order containing a plurality of media from at least one of the plurality of media streams.*

*(Emphasis added.)*

Applicants respectfully submit that the combination of *Herz* in view of *Arai*, and further in view of *Blonstein*, does not disclose, teach or suggest the emphasized features as highlighted in the amended independent claim 1 above. On pages 2 and 3 of the Office Action, the following is asserted:

... the breadth of the "presentation order" limitation does not preclude a read that the presentation of order of programs in lieu of actual program on the channels can be applied to the claims. The Examiner urges Applicant's to amend the claims to more clearly recite the presentation order is for programs on a given channel.

*Office Action, pages 2-3. (Emphasis in original.)*

Applicants have amended independent claim 1 to more clearly indicate "a presentation order containing a plurality of media from at least one of the plurality of media streams," and do not acknowledge that a presentation order is limited to programs on a given channel.

Applicants respectfully submit that the combination of *Herz*, *Arai* and *Blonstein* fail to disclose, teach or suggest *wherein the user interface is configured to enable the user to prioritize in advance of a time corresponding to the media presentation a presentation order of the media corresponding to the media presentation defined by the user, wherein the user interface is further configured to enable the user to define a presentation order containing a plurality of media from at least one of the plurality of media streams*, as

Serial No.: 09/827,470  
Art Unit: 2611

recited in independent claim 1. Applicants respectfully request that the rejection to independent claim 1 be withdrawn.

Because independent claim 1 is allowable over the proposed combination, dependent claims 2, 3 and 5-25 are allowable as a matter of law for at least the reason that the dependent claims 2, 3 and 5-25 contain all elements of the respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### **Independent claim 26**

Claim 26, as amended, recites:

26. A method for presenting a user-defined media presentation, the method comprising:  
providing a user interface to a user to receive user definition of media information, wherein the media information characterizes media for the media presentation, wherein providing comprises providing a plurality of screen displays for receiving user input that defines the media presentation with increasing detail;  
searching for the media corresponding to the user-defined media information among a plurality of media streams;  
automatically segueing media stream changes among the plurality of media streams to present the media corresponding to the user-defined media information; and  
*providing at least one of the plurality of the screen displays for enabling the user to prioritize in advance of a time corresponding to the media presentation an order in which the media of the media presentation is presented to the user, and further providing that the order contains a plurality of media from at least one of the plurality of media streams.*

*(Emphasis added.)*

Applicants respectfully submit that the combination of *Herz* in view of *Arai*, and further in view of *Blonstein*, does not disclose, teach or suggest the emphasized features as highlighted in the amended independent claim 26 above.

Applicants have amended independent claim 26 to more clearly indicate "that the order contains a plurality of media from at least one of the plurality of media streams," and do not acknowledge that the order of presentation is limited to programs on a given channel.

Serial No.: 09/827,470  
Art Unit: 2611

Applicants respectfully submit that the combination of *Herz*, *Arai*, and *Blonstein* fail to disclose, teach or suggest *providing at least one of the plurality of the screen displays for enabling the user to prioritize in advance of a time corresponding to the media presentation an order in which the media of the media presentation is presented to the user, and further providing that the order contains a plurality of media from at least one of the plurality of media streams*, as recited in the amended independent claim 26. Applicants respectfully request that the rejection to independent claim 26 be withdrawn.

Because independent claim 26 is allowable over the proposed combination, dependent claims 28-31 and 33-38 are allowable as a matter of law for at least the reason that the dependent claims 28-31 and 33-38 contain all elements of the respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### Claims 11-13 and 34-35

As explained above, *Herz* in view of *Arai* fail to disclose, teach or suggest the above-described claim features of independent claims 1 and 26. Because claims 11-13 and 34-35 contain the features of independent claims 1 and 26, respectively, it is respectfully submitted that *Herz* in view of *Arai* fail to disclose, teach or suggest the features of claims 11-13 and 34-35. Because *Maze* does not remedy these deficiencies, Applicants respectfully request that the rejections to claims 11-13 and 34-35 be withdrawn.

In summary, it is Applicants' position that a *prima facie* case for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that each of these claims is patentable over the proposed combination of references and that the rejection of these claims should be withdrawn.

#### Claim 23

As explained above, *Herz* and *Arai* fail to disclose, teach or suggest the above-described claim features of independent claim 1. Because claim 23 contains the features of independent claim 1, it is respectfully submitted that *Herz* in view of *Arai* fails to disclose, teach or suggest the features of claim 23. Because *Tanaka* does not remedy these deficiencies, Applicants respectfully request that the rejection to claim 23 be withdrawn.

Serial No.: 09/827,470  
Art Unit: 2611

In summary, it is Applicants' position that a *prima facie* case for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that claim 23 is patentable over the proposed combination of references and that the rejection of claim 23 be withdrawn.

#### Claim 24

As explained above, *Herz* and *Arai* fail to disclose, teach or suggest the above-described claim features of independent claim 1. Because claim 24 contains the features of independent claim 1, it is respectfully submitted that *Herz* in view of *Arai* fails to disclose, teach or suggest the features of claim 24. Because *Inoue* does not remedy these deficiencies, Applicants respectfully request that the rejection to claim 24 be withdrawn.

In summary, it is Applicants' position that a *prima facie* case for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that claim 24 is patentable over the proposed combination of references and that the rejection of claim 24 be withdrawn.

Serial No.: 09/827,470  
Art Unit: 2611

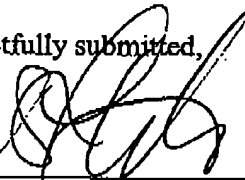
### CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



Jeffrey R. Kuester, Reg. No. 34,367

THOMAS, KAYDEN,  
HORSTEMEYER & RISLEY, L.L.P.  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record.**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☒ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**